

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MTS LOGISTICS INC. and MTS ULUSA
ARARASI TASIMACILIK VE TIC. A.S.,

1:07-cv-8629-GBD

Plaintiff(s),

-against-

GRANITE TILE SLATE WHOLESALE
a/k/a GRANITE TILE & SLATE
WHOLESALE, INC.

Defendant(s).

AFFIDAVIT FOR JUDGMENT
BY DEFAULT

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

JORGE A. RODRIGUEZ, being duly sworn, deposes and says:

1. I am a member of the Bar of this Court and am associated with the firm of MAHONEY & KEANE, LLP, attorneys for plaintiff in the above-entitled action and I am familiar with all the facts and circumstances in this action.

2. I make this affidavit pursuant to Rule 55.1 and 55.2(a) of the Civil Rules for the Southern District of New York, in support of plaintiff's application for the entry of a default judgment against defendant.

3. Herewith attached are true copies of the following:

Exhibit 1. Summons and Complaint;

Exhibit 2. Affidavit of Service;

Exhibit 3. Statement of damages;

Exhibit 4. Clerk's certificate; and

Exhibit 5. Proposed order

4. This is an action to recover \$3,270.00 owed by defendant to plaintiff for unpaid freight. (Ex. 1).

5. No part of the judgment sought herein has been paid, though duly demanded.

6. Jurisdiction of the subject matter is based on 28 USC § 1333 and admiralty/maritime jurisdiction. (Id.).

7. This action was commenced on or about October 4, 2007 by the filing of the summons and complaint. (Id.). A copy of the summons and complaint was served on defendant on October 18, 2007 by personal service on Kathy Bikadi, authorized by appointment or law to receive service of process, at the defendant's principal place of business. Proof of service by the Special Process Server was filed. (Ex. 2). The defendant has not answered the complaint and the time for the defendant to answer the complaint has expired.

8. This action seeks judgment for the liquidated amount of \$3,270.00, plus costs, fees and disbursements, for a total of \$3,764.95, as shown in the annexed statement of damages, which is justly due and owing, and no part of which has been paid. (Ex. 1, 3).

9. The disbursements sought to be taxed have been made in this action or will necessarily be made herein.

WHEREFORE, plaintiff requests the entry of Default and the entry of the annexed Judgment against defendant.

Dated: New York, New York

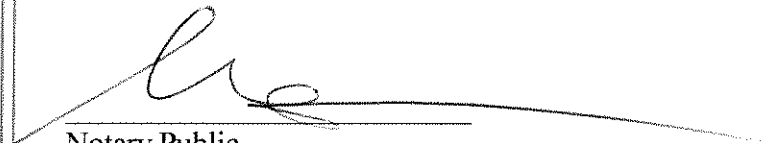
January 28, 2008

By:


Jorge A. Rodriguez (JR 2162)

Sworn to before me this

28 day of January, 2008


Notary Public

GARTH S. WOLFSON
NOTARY PUBLIC
State of New York No. 02476507849
Qualified to Notary Public
Term Expires 4/28/2011

Exhibit 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MTS LOGISTICS INC. and MTS ULUSA
ARARASI TASIMACILIK VE TIC. A.S.,

Plaintiff(s),

-against-

GRANITE TILE SLATE WHOLESALE
a/k/a GRANITE TILE & SLATE
WHOLESALE, INC.

Defendant(s).

SUMMONS IN A CIVIL ACTION

Case No. 07 CV

07 CIV 8629

JUDGE DANIELS

TO: (name and address of defendants)

GRANITE TILE SLATE WHOLESALE
a/k/a GRANITE TILE & SLATE
WHOLESALE, INC.
601 S. Jason Street
Denver, CO 80223

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY
(name and address)

MAHONEY & KEANE, LLP
111 Broadway, 10th Floor
New York, NY 10003
(212) 385-1422

an answer to the complaint which is served on you with this summons, within **twenty (20)** days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

J. MICHAEL MAHON

OCT 04 2007

CLERK

DATE

DEPUTY CLERK

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MTS LOGISTICS INC. and MTS ULUSA
ARARASI TASIMACILIK VE TIC. A.S.,

Plaintiff(s),

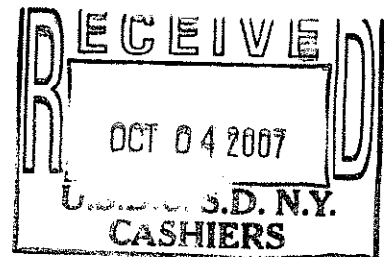
-against-

GRANITE TILE SLATE WHOLESALE
a/k/a GRANITE TILE & SLATE
WHOLESALE, INC.

Defendant(s).

07 CV

COMPLAINT



PLEASE TAKE NOTICE that Plaintiff(s), MTS LOGISTICS INC. and MTS ULUSA ARARASI TASIMACILIK VE TIC. A.S., (collectively "MTS"), by their attorneys, MAHONEY & KEANE, LLP, as and for a Complaint against Defendant(s), GRANITE TILE SLATE WHOLESALE a/k/a GRANITE TILE & SLATE WHOLESALE, INC., ("GRANITE TILE"), allege, upon information and belief, as follows:

1. This is a case of admiralty and maritime jurisdiction within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure. Jurisdiction is based upon 28 U.S.C. § 1333, as well as the Court's pendent, supplementary and ancillary jurisdiction.
2. Plaintiff MTS ULUSA ARARASI TASIMACILIK VE TIC. A.S. is a legal entity duly organized and existing pursuant to the laws of a foreign country.
3. Plaintiff MTS LOGISTICS INC. is a legal entity duly organized and existing pursuant to the laws of the United States with offices and a place of business located within the jurisdiction of the United States District Court for the Southern District of New York.

4. Defendant GRANITE TILE is a business entity organized and existing pursuant to the laws of the United States with offices and a place of business located at 601 S. Jason Street, Denver, Colorado 80223.

5. The United States District Court for the Southern District of New York is the proper venue for this action, as Plaintiffs MTS reside and/or maintains a principal place of business within the Southern District of New York.

6. Plaintiffs sue on their own behalf and as agents and trustees on behalf of any other party who may now have or hereinafter acquire an interest in this action.

AS AND FOR A FIRST CAUSE OF ACTION AGAINST GRANITE TILE

7. Plaintiff repeats and reiterates each and every allegation contained in paragraphs "1" through "6" as if specifically set forth herein at length.

8. At all times relevant herein, Defendant GRANITE TILE entered into agreements, service contracts, contracts of affreightment, charter agreements and/or bills of lading, with Plaintiff for the carriage, storage, handling, care and/or maintenance of Defendant's cargoes by Plaintiff in consideration for payments by Defendant to Plaintiff for said services.

9. Plaintiff duly performed all duties and obligations required to be performed by Plaintiff in connection with Defendant's goods.

10. Defendant wrongfully, willfully, negligently and/or fraudulently breached the terms of the subject agreement(s) by, *inter alia*, failing to pay freight, dead freight, demurrage, detention, port fees, tariffs and other associated costs.

11. As a result of Defendant's breach of the subject agreements Plaintiff has incurred, and will continue to incur, costs and expenses for which Defendant is liable under the

terms of the agreements and at law.

12. Plaintiff has placed Defendant on notice of its claim that Defendant has breached the subject agreements and violated Plaintiff's rights under the law.

13. Despite Plaintiff's repeated demands, Defendant has failed to pay the Plaintiff's damages due and owing under the agreements and at law.

14. By reason of the foregoing, Plaintiff has sustained damages in the amount of \$3,270.00, together with interest, costs, fees, and expenses.

AS AND FOR A SECOND CAUSE OF ACTION AGAINST GRANITE TILE

15. Plaintiff repeats and reiterates each and every allegation contained in paragraphs "1" through "14" as if specifically set forth herein at length.

16. Defendant has an account stated with the Plaintiff.

17. By reason of the foregoing, Plaintiff has sustained damages in the amount of \$3,270.00, together with interest, costs, fees, and expenses.

AS AND FOR A THIRD CAUSE OF ACTION AGAINST GRANITE TILE

18. Plaintiff repeat and reiterate each and every allegation contained in paragraphs "1" through "17" as if specifically set forth herein at length.

19. Plaintiff is due from Defendant the quantum meruit of Plaintiff's services.

WHEREFORE, Plaintiff prays:

(A). that judgment be entered in favor of Plaintiff for an amount exceeding **three thousand two hundred and seventy dollars** \$3,270.00, plus interest, fees, including attorneys' fees, costs, and disbursements;

(B). that Court process be issued against the Defendant; and

(C). that Plaintiff be granted such other and further relief as the Court may deem just and proper.

Dated: New York, New York

October 3, 2007

MAHONEY & KEANE, LLP
Attorneys for Plaintiffs
MTS LOGISTICS INC. and MTS ULUSA
ARARASI TASIMACILIK VE TIC. A.S.

By: 

Jorge A. Rodriguez (JR 2162)
111 Broadway, Tenth Floor
New York, New York 10006
Tel (212) 385-1422
Fax (212) 385-1605
Our File No. 12/3435/B/07/7

SERVICE LIST

GRANITE TILE SLATE WHOLESALE
a/k/a GRANITE TILE & SLATE
WHOLESALE, INC.
601 S. Jason Street
Denver, CO 80223

Exhibit 2



12/3435

AO 440 (Rev. 10/93) Summons in a Civil Action

RETURN OF SERVICE

SERVICE OF: **SUMMONS, COMPLAINT**
 EFFECTED (1) BY ME: **OUT OF STATE**
 TITLE: **PROCESS SERVER**

DATE:

CHECK ONE BOX BELOW TO INDICATE APPROPRIATE METHOD OF SERVICE:

☐ Served personally upon the defendant:

GRANITE TILE SLATE WHOLESALE a/k/a GRANITE TILE & SLATE WHOLESALE, INC.

Place where served:

1000 W. Mississippi Ave. Denver, CO. 80223

☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left:

Kathy Bikadi

Relationship to defendant:

Secretary

Description of person accepting service:

SEX: F AGE: 55 HEIGHT: 5'5" WEIGHT: 125 SKIN: Cane HAIR: Grey OTHER: Glasses

☒ To the best of my knowledge, said person was not engaged in the U.S. Military at the time of service

STATEMENT OF SERVER

TRAVEL \$ _____

SERVICES \$ _____

TOTAL \$ _____

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in this Return of Service and Statement of Server is true and correct.

DATE: 10/18/2007

L.S.
 SIGNATURE OF OUT OF STATE
 GUARANTEED SUBPOENA SERVICE, INC.
 2009 MORRIS AVENUE
 UNION, NJ 07083

ATTORNEY: JORGE A. RODRIGUEZ
 PLAINTIFF: MTS LOGISTICS INC.
 DEFENDANT: GRANITE TILE SLATE WHOLESALE a/k/a GRANITE TILE & SLATE WHOLESALE, INC.
 VENUE: DISTRICT
 DOCKET: 07 CIV 8629

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

AFFIDAVIT OF SERVICE

**UNITED STATES DISTRICT COURT
District of New York**

Index Number: 07CIV8629

Date Filed: _____

Plaintiff:

MTS Logistics, Inc. and MTS ULUSA Ararasi Tasimacilik VE Tic. A.S.

vs.

Defendant:

Granite Tile Slate Wholesale aka Granite Tile & Slate Wholesale, Inc.

For:

Mahoney & Keane, Llp.
Mahoney & Keane, LLP.
111 Broadway, 10th Floor
New York, NY 10003

Received by Guaranteed Subpoena Service, Inc. on the 10th day of October, 2007 at 4:14 pm to be served on
**Granite Tile Slate Wholesale Aka Granite Tile & Slate Wholesale, Inc., 1000 West Mississippi Avenue,
Denver, CO 80223.**

I, Charles M. Schmidt, being duly sworn, depose and say that on the **18th day of October, 2007 at 10:24 am, I:**

AUTHORIZED: served by delivering a true copy of the **1- Summons in a civil action and 1- Complaint** with the date and hour of service endorsed thereon by me, to: **Kathy Bikadi as Secretary**, as no other officers were present at time of service and who stated they are authorized to accept service for and on behalf of: **Granite Tile Slate Wholesale Aka Granite Tile & Slate Wholesale, Inc.** at their usual place of business at address of: **1000 West Mississippi Avenue, Denver, CO 80223**, and informed said person of the contents therein, in compliance with state statutes.

Description of Person Served: Age: 55, Sex: F, Race/Skin Color: Cauc, Height: 5'5", Weight: 125, Hair: Gry, Glasses: Y

I certify that I am over the age of 18, have no interest in the above titled action, and am a Process Server in accordance with current Colorado Statutes.

Subscribed and Sworn to before me on the 18th day of October, 2007 by the affiant who is personally known to me.


NOTARY PUBLIC


Charles M. Schmidt
Process Server

Guaranteed Subpoena Service, Inc.
2009 Morris Avenue
Union, NJ 07083
(800) 672-1952

Our Job Serial Number: 2007005535
Ref: 20071010103033

Exhibit 3

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MTS LOGISTICS INC. and MTS ULUSA
ARARASI TASIMACILIK VE TIC. A.S.,

1:07-cv-8629-GBD

Plaintiff(s),

-against-

STATEMENT OF DAMAGES

GRANITE TILE SLATE WHOLESALE
a/k/a GRANITE TILE & SLATE
WHOLESALE, INC.

Defendant(s).

Principal amount \$3,270.00

Costs and Disbursements:

Clerk's filing fee..... \$350.00

Process server fee for service..... \$144.95

Total..... \$3,764.95

Exhibit 4

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MTS LOGISTICS INC. and MTS ULUSA
ARARASI TASIMACILIK VE TIC. A.S.,

Plaintiff(s),

-against-

GRANITE TILE SLATE WHOLESALE
a/k/a GRANITE TILE & SLATE
WHOLESALE, INC.

Defendant(s).

1:07-cv-8629-GBD

CLERK'S CERTIFICATE

I, J. MICHAEL MCMAHON, Clerk of the United States District Court for the Southern District of New York, do hereby certify that this action commenced on October 4, 2007 with the filing of a summons and complaint, a copy of the summons and complaint was served on defendant by personally serving Kathy Bikadi, authorized by appointment or law to receive service of process, at defendant's principal place of business, and proof of such service thereof was filed on November 6, 2007.

I further certify that the docket entries indicate that the defendant has not filed an answer or otherwise moved with respect to the complaint herein. The default of the defendant is hereby noted.

Dated: New York, New York

January 22, 2008

J. MICHAEL MCMAHON
Clerk of the Court

By: 

Deputy Clerk

Exhibit 5

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MTS LOGISTICS INC. and MTS ULUSA
ARARASI TASIMACILIK VE TIC. A.S.,

Plaintiff(s),

-against-

GRANITE TILE SLATE WHOLESALE
a/k/a GRANITE TILE & SLATE
WHOLESALE, INC.

Defendant(s).

1:07-cv-8629-GBD

DEFAULT JUDGMENT

This action having been commenced on October 4, 2007 by the filing of the Summons and Complaint, and a copy of the Summons and Complaint having been personally served on the defendant, GRANITE TILE SLATE WHOLESALE a/k/a GRANITE TILE & SLATE WHOLESALE, INC. on October 18, 2007, by serving said documents on Kathy Bikadi, authorized by appointment or law to receive service of process, at defendant's principal place of business, and a proof of service having been filed on November 6, 2007 and the defendant not having answered the Complaint, and the time for answering the Complaint having expired, it is

ORDERED, ADJUDGED AND DECREED: That the plaintiff have a judgment against defendant in the liquidated amount of \$3,270, plus costs and disbursements of this action in the amount of \$494.95, amounting in all to \$3,764.95.

Dated: New York, New York

January _____, 2008

U.S.D.J.